

In the Matter of Merchant Mariner's Document No. Z-532090-D1
Issued to: GARLAND ELIJAH BRADFORD

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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GARLAND ELIJAH BRADFORD

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1.

On 24 February, 1950, an Examiner of the United States Coast Guard at Jacksonville, Florida, revoked Merchant Mariner's Document No. Z-532090-D1 issued to Garland Elijah Bradford upon finding him guilty of "misconduct" based upon two specifications alleging in substance, that while serving as messman on board the American SS MORMACWREN, under authority of the document above described, on or about 19 February, 1950, he unlawfully had marijuana in his possession and fraudulently or knowingly imported into the United States certain narcotics in violation of 21 U.S.C. 174.

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. He was represented by counsel of his own selection and he entered a plea of "guilty" to the charge and each specification.

Thereupon, the Investigating Officer made his opening statement and rested his case.

In defense, Appellant made a statement requesting leniency. Appellant's counsel, a union representative, then made a plea of mitigation on behalf of Appellant.

At the conclusion of the hearing, having heard the statements of the Investigating Officer and Appellant, the Examiner found the charge "proved" by plea and entered an order revoking Appellant's Merchant Mariner's Document No. Z-532090-D1 and all other certificates and documents issued to him by the United States Coast Guard or any predecessor authority.

From that order, this appeal has been taken, and it is a request for clemency based on the facts that Appellant is not a user of narcotics; he partially supports his mother and two sisters; he has never been in trouble before; and he knows no other means of making a living.

Based upon my examination of the Record submitted, I hereby make the following

FINDINGS OF FACT

On 19 February, 1950, Appellant was serving as a messman on board the American SS

MORMACWREN, acting under authority of his Merchant Mariner's Document No. Z-532090-D1. On this date, a small quantity of marijuana was discovered in or on Appellant's locker during a routine search of the ship by Customs Officers.

There is no record of any prior disciplinary action having been taken against Appellant. He is 22 years old, and has been going to sea about 5 or 6 years.

OPINION

Appellant's plea of "guilty" is sufficient basis on which to find the first specification, alleging unlawful possession of marijuana, "proved by plea." In view of the statutory duty of the Coast Guard to protect men and ships at sea, it has consistently been the policy of the Coast Guard to revoke a seaman's documents when he has committed this serious offense. For reasons pointed out in the Examiner's decision, no other order is considered adequate. Consequently, Appellant's plea for clemency cannot be given sufficient weight to modify the order imposed.

Although Appellant also pleaded "guilty" to the second specification alleging that he imported narcotics in violation of 21 U.S.C. 174, this specification is inherently defective and the findings with respect to this specification must be reversed. Marijuana is not a narcotic within the definition of narcotics controlling the application of 21 U.S.C. 174. And the Examiner's third finding of fact makes it clear that the specification is directed against the importation of marijuana. Consequently, the second specification must be found "not proved."

CONCLUSION

Despite the disposition made of the second specification, the first specification is ample to sustain the order imposed.

ORDER

The order of the Examiner dated 24 February, 1950, should be, and it is, AFFIRMED.

A.C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D.C., this 1st day of June, 1950.